

Re. : Amendment and Response to Office Action Mailed September 28, 2005
Appl. No. : 10/692,141
Filed : October 23, 2003

III. AMENDMENTS TO THE DRAWINGS

The attached replacement sheets of drawings includes amendments to Figures 1-3 to clarify what reference numerals 2 and 3 are referring; and an amendment to Figure 4 that adds the legend “PRIOR ART.” The attached replacement sheets of drawings, which includes Figures 1 to 4, replaces the original sheets of drawings which included Figures 1 to 4.

Annotated or marked-up sheets of drawings for Figures 1 to 4 are attached. The annotated sheets of drawings show the proposed drawing corrections in red ink.

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IV. REMARKS

Claims 1-17 are currently pending in the application and the Office Action rejected Claims 1-17. By the foregoing amendments, Applicants cancelled Claims 1-17 without prejudice and added new Claims 18-36 to further clarify, more clearly define and/or broaden the claimed invention, and expedite receiving a notice of allowance. Pursuant to 37 C.F.R. § 1.121(f), no new matter is introduced by these amendments. Applicants believe that Claims 18-36 are now in condition for allowance.

Please note that Applicants' remarks are presented in the order in which the issues were raised in the Office Action for the convenience and reference of the Examiner. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, is consistent with the Examiner. Further, the following remarks are not intended to be an exhaustive enumeration of the distinctions between any particular reference and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and that reference.

A. Oath/Declaration

The Office Action stated that the oath or declaration was defective. The Office Action also stated a new oath or declaration in compliance with 37 C.F.R. § 1.67(a) identifying this application by application number and filing date is required. The Office Action explained that the oath or declaration was defective because the inventors listed

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on the oath/declaration are different than those listed on the specification. The Office Action further stated that all inventors must be listed appropriately on the oath/declaration.

Applicants respectfully traverse this rejection because the inventors listed on the Declaration are the same as those listed on the specification. In particular, the application as originally filed listed “Ai Wen” as one of the inventors. The Declaration filed on June 11, 2004, listed “Arvin Patel” as one of the inventors. “Ai Wen” and “Arvin Patel,” however, are the same person. “Ai Wen” is simply the Chinese speaking name of “Ai Wen.” Thus, the Declaration and application include the same inventors, but the specification lists the Chinese speaking name of “Ai Wen” while the Declaration includes the inventor’s English name of “Arvin Patel.” Accordingly, Applicants respectfully request that this requirement for a new Declaration be withdrawn.

B. Information Disclosure Statement

The Office Action stated that the information disclosure statement filed April 14, 2005 fails to comply with the provisions of CFR 1.97, 1.98 and MPEP § 609. In particular, the Office Action stated that foreign patent 223,700 is missing Fig. 1 and therefore has not been considered. The Office Action stated that the other foreign patents crossed out were not considered because they fail to include an English abstract, a translation or a statement of relevance. The Office Action stated that, as for the court documents/proceedings, there has not been provided an explanation of relevance or an explanation as to why these papers are pertinent (so as to merit inclusion as prior art for

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this application). The Office Action stated that, if portions of these documents are pertinent, these portions need to be specifically directed to and identified. The Office Action stated that these references have been placed in the application file, but the information referred to therein has not been considered as to the merits.

As to foreign patent 223,700, the enclosed Information Disclosure Statement includes a new copy of foreign patent 223,700 with Figure 1.

As to the foreign patents that were not considered because they fail to include an English abstract, a translation or a statement of relevance, Applicants respectfully submit that these foreign patents may be pertinent, *inter alia*, for the structure shown in their drawings and therefore requests consideration of these foreign patents. In addition, any available English abstracts and other information related to these patents is included in the enclosed Information Disclosure Statement.

As to the court documents/proceedings submitted previously, Applicants submitted these documents in accordance with MPEP § 2001.06(c). In particular, MPEP § 2001.06(c) states:

Where the subject matter for which a patent is being sought is or has been involved in litigation, the existence of such litigation and any other material information arising therefrom must be brought to the attention of the U.S. Patent and Trademark Office. Examples of such material information include evidence of possible prior public use or sales, questions of inventorship, prior art, allegations of "fraud," "inequitable conduct," and "violation of duty of disclosure." Another example of such material information is any assertion that is made during litigation which is contradictory to assertions made to the examiner. *Environ Prods., Inc. v. Total Containment, Inc.*, 43 USPQ2d 1288, 1291 (E.D. Pa. 1997). Such information might arise during litigation in, for example, pleadings, admissions, discovery including interrogatories, depositions, and other documents and testimony.

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MPEP § 2001.06(c), at 2000-6. Applicants submitted these documents because the litigation involved subject matter generally relates to tables and, in particular, to tables with blow-molded plastic table tops. Applicants submitted these documents out of an abundance of caution because Applicants wanted to ensure that all documents were disclosed to the Examiner in accordance with MPEP § 2001.06(c).

C. Objections to Drawings

The Office Action objected to the drawings and stated that Figure 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. *See* MPEP § 608.02(g). The Office Action also objected to the drawings because it is unclear what reference numerals 2 and 3 are referring and it appears that they are referring to the same feature.

As set forth above, Applicants amended Figure 4 to include the “Prior Art” legend. Therefore, Applicants request that this objection to the drawings based upon the omission of the legend “Prior Art” be withdrawn.

Applicants also amended Figures 1-3 to clarify what reference numerals 2 and 3 are referring. Consequently, Applicants request that this objection to the drawings be withdrawn.

D. Objection to Specification

The Office Action objected to the disclosure because the Office Action contends that the incorporation of essential material in the specification be reference to an

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unpublished U.S. application, foreign application or patent, or to a publication is improper. The Office Action stated that Applicants is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection or other requirement imposed by the Office. The Office Action also stated that the amendment must be accompanied by a statement executed by the Applicant, or a practitioner representing the Applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter.

As set forth above, Applicants amended paragraph [042] to delete the following statement: “Further details regarding a folding table without side rails is found in Chinese Patent Application No. 02269593.1, filed September 24, 2002, entitled ‘UTILITY TABLE WITH NO SIDE RAIL,’ which application is hereby incorporated by reference in its entirety.” Applicants deleted this statement without prejudice because the material disclosed in this reference is not currently being used to overcome any objection, rejection or other requirement imposed by the Office. Accordingly, Applicants request that this objection to the specification be withdrawn.

E. Response to the Section 112 Rejection

The Office Action rejected Claim 16 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action states Claim 16 recites the

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limitation "one end of the tabletop" in lines 14-15, but there is insufficient antecedent basis for this limitation in the claim.

As set forth above, Applicants cancelled Claim 16 without prejudice. Accordingly, Applicants respectfully request that this Section 112 rejection be withdrawn because it is now moot.

F. Double Patenting Provisional Rejections

The Office Action provisionally rejected Claims 1-8, 13 and 14 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-8 of co-pending U.S. patent application serial no. 10/681,975 in view of U.S. Patent No. 6,058,853 issued to Pinch.

The Office Action provisionally rejected Claims 9 and 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1 and 4 of co-pending U.S. patent application serial no. 10/681,975 in view of U.S. Patent No. 6,622,644 issued to Buono.

The Office Action provisionally rejected Claim 11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending U.S. patent application serial no. 10/681,975 in view of the Pinch patent.

The Office Action provisionally rejected Claim 12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending U.S. patent application serial no. 10/681,975 in view of the Pinch patent.

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The Office Action provisionally rejected Claims 15 and 16 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending U.S. patent application serial no. 10/681,975 in view of U.S. Patent No. 5,465,673 issued to Ma.

The Office Action provisionally rejected Claim 17 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending U.S. patent application serial no. 10/681,975 in view of the Pinch patent.

The Office Action provisionally rejected Claim 1-8, 13 and 14 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-8 of co-pending U.S. patent application serial no. 10/669,740 in view of the Pinch patent.

The Office Action provisionally rejected Claim 1-8, 13 and 14 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-8 of co-pending U.S. patent application serial no. 10/669,740 in view of the Pinch patent.

The Office Action provisionally rejected Claims 9 and 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1 and 4 of co-pending U.S. patent application serial no. 10/669,740 in view of U.S. Patent No. 6,622,644 issued to Buono.

The Office Action provisionally rejected Claim 11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending U.S. patent application serial no. 10/669,740 in view of the Pinch patent.

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The Office Action provisionally rejected Claim 12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending U.S. patent application serial no. 10/669,740 in view of the Pinch patent.

The Office Action provisionally rejected Claims 15 and 16 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending U.S. patent application serial no. 10/669,740 in view of U.S. Patent No. 5,465,673 issued to Ma.

The Office Action provisionally rejected Claim 17 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending U.S. patent application serial no. 10/669,740 in view of the Pinch patent.

Applicants respectfully traverse these rejections. As set forth above, in order to further clarify, more clearly define and/or broaden the claimed invention, and expedite receiving a notice of allowance, Applicants cancelled Claims 1-17 without prejudice and added new Claims 18-36. In view of these new Claims 18-36, Applicants request that this double patenting rejection be withdrawn.

Additionally, as stated in the Office Action, a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. *See* 37 C.F.R. § 1.130(b).

In order to expedite receiving a Notice of Allowance and eliminate any other such provisional double patenting rejections, Applicants submit herewith a timely filed

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terminal disclaimer in compliance with 37 C.F.R. § 1.321(c). Applicant is also submitting herewith three Certificates under 37 C.F.R. § 3.73(b) establishing that U.S. patent application serial no. 10/681,975; U.S. patent application serial no. 10/669,740; and this application are commonly owned by Assignee, Lifetime Hong Kong, Limited.

In particular, the first Certificate under 37 C.F.R. § 3.73(b) demonstrates that Assignee Lifetime Hong Kong, Limited is the owner of U.S. patent application serial no. 10/681,975. The second Certificate under 37 C.F.R. § 3.73(b) demonstrates that Assignee Lifetime Hong Kong, Limited is the owner of U.S. patent application serial no. 10/669,740. The third Certificate under 37 C.F.R. § 3.73(b) demonstrates that Assignee Lifetime Hong Kong, Limited is the owner of this application. This terminal disclaimer is accompanied by the fee set forth in 37 C.F.R. § 1.20(d) in the amount of \$130.00.

G. Response to the Section 102 Rejections

The Office Action rejected Claims 1-5 and 8-10 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,622,644 issued to Buono. The Office Action rejected Claims 1, 6, 7, 11-14 and 17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,058,853 issued to Pinch.

Applicants respectfully traverse these rejections. As set forth above, in order to further clarify, more clearly define and/or broaden the claimed invention, and expedite receiving a notice of allowance, Applicants cancelled Claims 1-17 without prejudice and added new Claims 18-36. In view of these new Claims 18-36, Applicants request that these Section 102 rejections be withdrawn.

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H. Response to the Section 103 Rejections

The Office Action rejected Claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over the Buono patent in view of the Ma patent. The Office Action provisionally rejected Claims 1-8, 13 and 14 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/681,975 in view of the Pinch patent. The Office Action provisionally rejected Claims 9 and 10 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/681,975 in view of the Buono patent. The Office Action provisionally rejected Claim 11 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/681,975 in view of the Pinch patent. The Office Action provisionally rejected Claim 12 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/681,975 in view of the Pinch patent. The Office Action provisionally rejected Claims 15 and 16 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/681,975 in view of the Ma patent. The Office Action provisionally rejected Claim 17 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/681,975.

The Office Action provisionally rejected Claims 1-8, 13 and 14 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/669,740 in view of the Pinch patent. The Office Action provisionally rejected Claims 9 and 10 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/669,740 in view of the Buono patent. The Office Action provisionally rejected Claim 11 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application

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No. 10/669,740 in view of the Pinch patent. The Office Action provisionally rejected Claim 12 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/669,740 in view of the Pinch patent. The Office Action provisionally rejected Claims 15 and 16 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/669,740 in view of the Ma patent. The Office Action provisionally rejected Claim 17 under 35 U.S.C. § 103(a) as being obvious over co-pending U.S. Patent Application No. 10/669,740.

Applicants respectfully traverse these rejections. As set forth above, in order to further clarify, more clearly define and/or broaden the claimed invention, and expedite receiving a notice of allowance, Applicants cancelled Claims 1-17 without prejudice and added new Claims 18-36. In view of these new Claims 18-36, Applicants request that these Section 102 rejections be withdrawn.

I. New Claims

New Claims 18-36 have been added to more fully define the Applicants' invention and are believed to be fully distinguished over the prior art of record.

CONCLUSION

In view of the foregoing, Applicant submits that Claims 18-36 are allowable over the cited references and are in condition for allowance. Accordingly, Applicant requests that a Notice of Allowance be promptly issued.

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If any further impediments to allowance of this application remain, the Examiner is cordially invited to contact the undersigned by telephone so that these remaining issues may be promptly resolved.

The Commissioner is authorized to charge payment of any additional fees associated with this communication, which have not otherwise been paid, to Deposit Account No. 23-3178. If any additional extension of time is required, which have not otherwise been requested, please consider this a petition therefore and charge any additional fees that may be required to Deposit Account No. 23-3178.

Respectfully submitted,

Dated: 2/28/06

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Title: FOLDING TABLE WITH HANDLES

Inventors: Shenghao, et al.

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ANNOTATED SHEET

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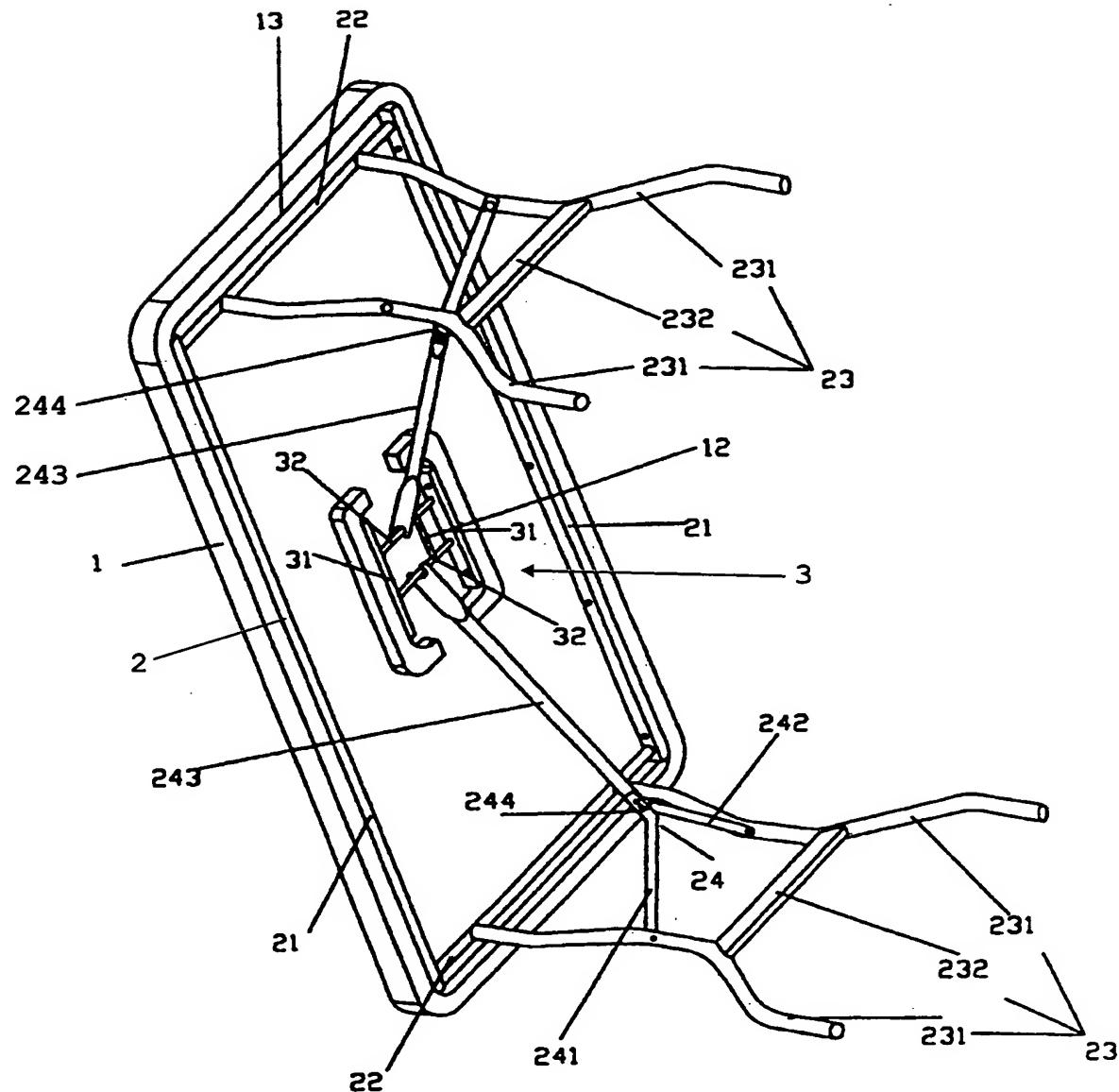


Fig. 1

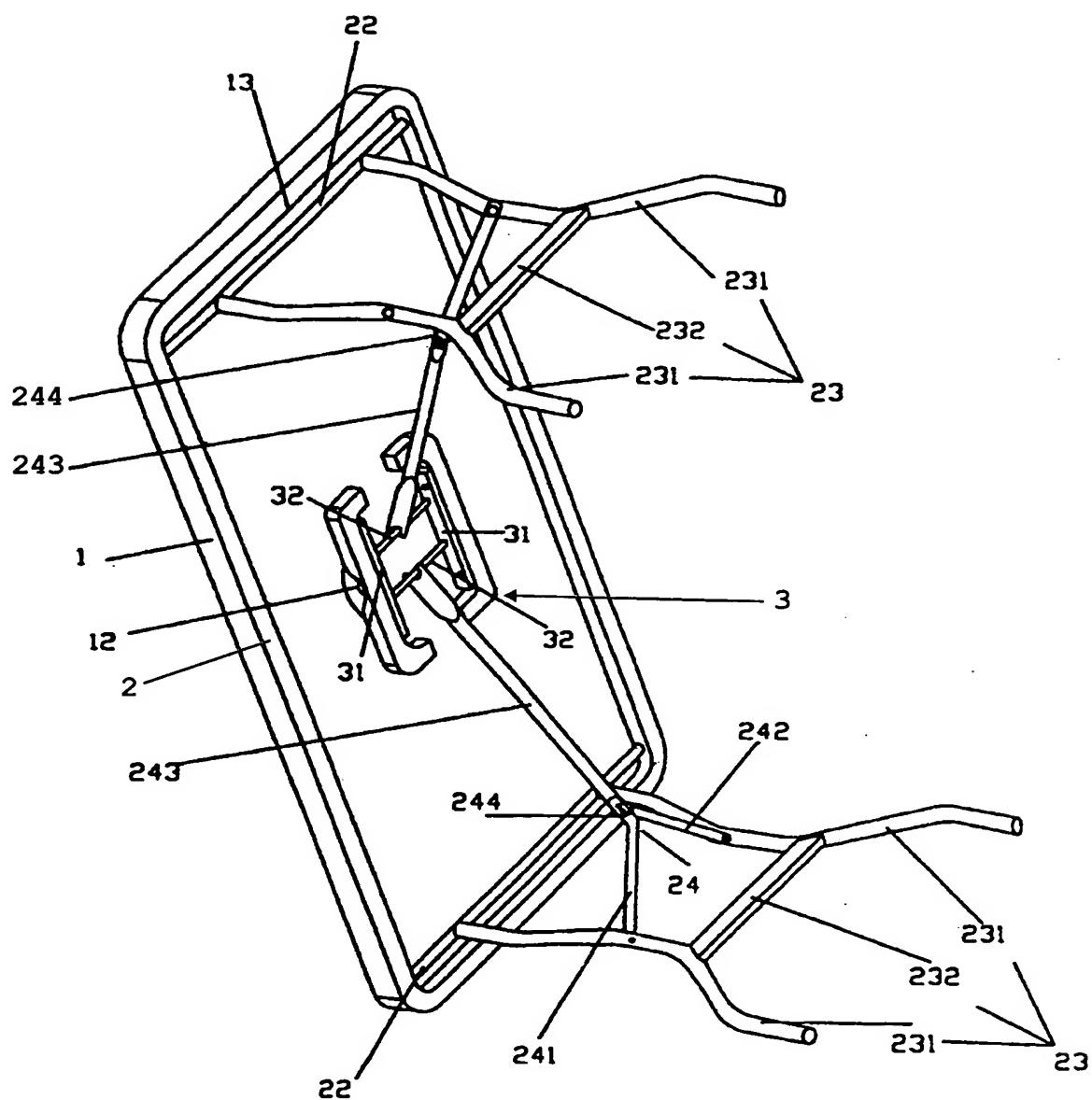


Fig. 2

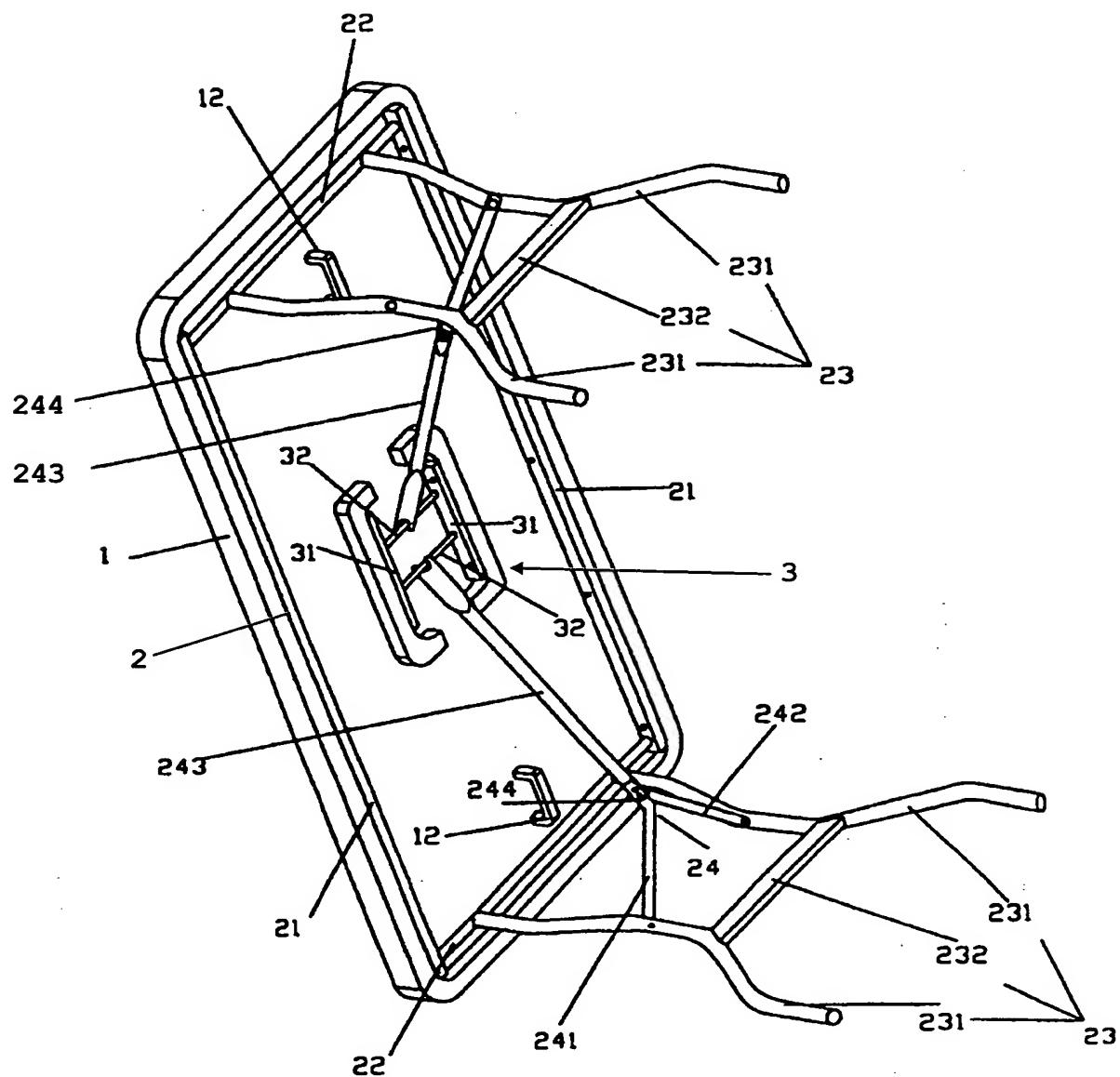


Fig. 3

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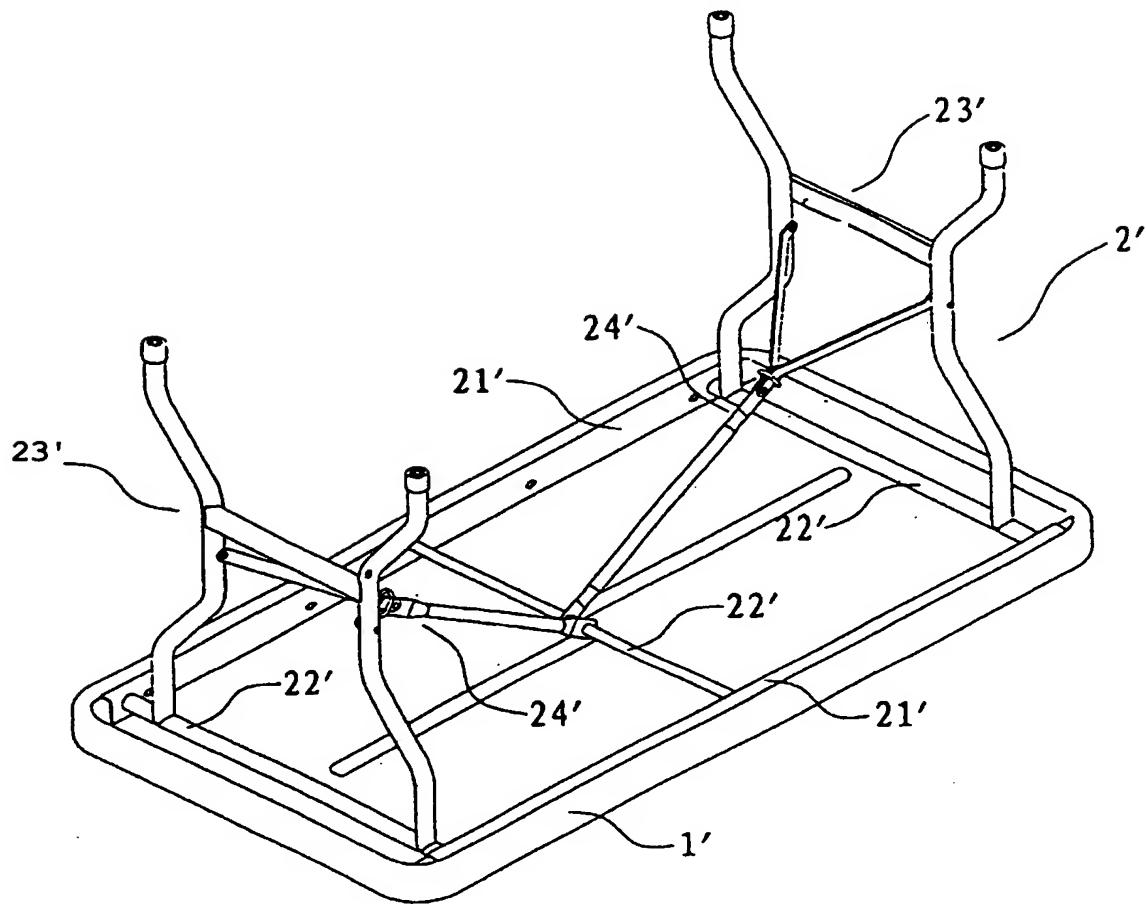


Fig. 4
(Prior Art)